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April 17, 2024

BY ECF AND ELECTRONIC MAIL

The Honorable Katherine Polk Failla  
Thurgood Marshall United States Courthouse  
40 Foley Square, Courtroom 618  
New York, New York 10007

**MEMO ENDORSED**

***Walmart Inc., et al. v. Capital One, N.A., 23-cv-02942 (KPF)***

Dear Judge Failla:

The undersigned counsel represent Plaintiffs Walmart Inc., Wal-Mart Stores East, LP, Wal-Mart Louisiana, LLC, Wal-Mart Stores Texas, LLC, Wal-Mart Stores Arkansas, LLC, Wal-Mart Puerto Rico, Inc., Wal-Mart.com USA, LLC, and Walmart Apollo, LLC (collectively, “Walmart”) and Defendant Capital One, National Association (“Capital One”) (collectively, “the Parties”) in the above-captioned matter. We write pursuant to the Court’s March 26, 2024 Opinion and Order (“March 26 Order”), directing the Parties to file a joint letter “addressing next steps in this matter, and in particular, the Parties’ proposals for resolving the remaining claims and counterclaims in this case.” (ECF No. 119).

The Parties have agreed to enter settlement negotiations in an attempt to resolve their respective claims (the “Settlement Negotiations”). Accordingly, the Parties have agreed on the following terms relating to the Settlement Negotiations and respectfully request the Court’s approval of the following joint proposal.

- This Court will stay all litigation concerning the Credit Card Program Agreement among the Parties, including, but not limited to, (i) any motion by Capital One seeking leave to appeal the March 26 Order, (ii) any requests by Walmart to enforce the March 26 Order, and (iii) any motions or requests for relief related to the remaining claims and counterclaims.
- Either Party may terminate the Settlement Negotiations on 10 days written notice to the other Party and may thereafter notify the Court that the stay should be lifted. In the event that the stay is lifted, and litigation resumes, Capital One and Walmart will be returned to their respective positions as of the entry of the March 26 Order.

- If the Parties are unable to reach an agreement regarding the termination of the partnership and transition of the Card Program, and litigation resumes, the Parties will be returned to their respective positions as of the date of the Court's entry of summary judgment. Neither Party shall be entitled to any potential damages that accrued during the period of the stay.
- The Parties propose to submit joint letters addressing the status of the Settlement Negotiations every two months. The first joint letter will be filed with the Court no later than June 19, 2024.

The Parties appreciate the Court's continued attention to this matter and are happy to provide any information helpful to the Court's consideration of this request.

Respectfully submitted,

*/s/ Jesse Panuccio*

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Application GRANTED. This case is hereby STAYED in accordance with the terms of the above proposal. The parties shall file a joint letter regarding the status of their ongoing settlement negotiations on or before **June 19, 2024**.

The Clerk of Court is directed to terminate the pending motion at docket entry 120.

Dated: April 18, 2024  
New York, New York

SO ORDERED.

*Katherine Polk Failla*